

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:22-cv-00057-MR**

ANTWAIN LAMAR DENNIS,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
LESTER TORRES, et al.,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on its own motion.

On June 24, 2022, the Plaintiff's Complaint passed initial review in accordance with the Court's Order. [Doc. 9]. The Court ordered that service proceed according to Local Civil Rule 4.3 for the surviving Defendants. [Id. at 14]. On August 26, 2022, the North Carolina Department of Public Safety (NCDPS) filed a document under seal indicating it was unable to procure a waiver of service for Defendant Luis Velasco for the reasons stated in that document. [Doc. 20]. The sealed document provided the last known address for Defendant Velasco. [See id.]. The Court, therefore, ordered the U.S. Marshal to use reasonable efforts to locate and obtain service on Defendant Velasco using the information in the sealed document. [Doc. 21]. On September 13, the Summons for Defendant Velasco was returned

unexecuted. [Doc. 23]. It noted that the U.S. Marshal “could not locate address” and the “address not an actual address.” [Id.]. The Court, therefore, ordered defense counsel to consult with the NCDPS to confirm Defendant Velasco’s last known address and/or any other additional information helpful to service on this Defendant. [Doc. 24].

The North Carolina Department of Justice (NCDOJ) responded to the Court’s Order under seal, confirming the previously provided last known address for Defendant Velasco and providing other information potentially useful to serving this Defendant. [Doc. 28]. The Court ordered the U.S. Marshal to again attempt service on Defendant Velasco with this additional information. [Doc. 34]. The U.S. Marshal returned the Summons unexecuted, explaining that “[t]he address listed is wrong.” [Doc. 36 at 2]. The U.S. Marshal also provided a possible updated address for Defendant Velasco that is substantially similar to the previously provided address, including a single-digit difference in the listed street address.¹ [Id.]. With this additional information, the Court again ordered defense counsel to submit a status update and an amended sealed document after conferring with the NCDPS regarding Defendant Velasco’s last known address and/or any additional

¹ That is, it appeared that the “9” listed in the previously provided address may have been a “4.” [See Doc. 20 at 1; Doc. 36 at 2]. It also appeared that the street name was “NE,” not “NW.” [Id.].

information necessary or helpful to the U.S. Marshal to effect service. [Doc. 41]. Defense counsel responded to the Court's Order. [Doc. 42]. Defense counsel again consulted with the N.C. Department of Adult Corrections (formerly the NCDPS) and received updated information regarding Plaintiff's address, which defense counsel has provided under seal. [Id.]. Defense counsel notes that the street name is in fact "NE," and not "NW," as suggested by the Court. The numerical address provided, however, remains consistent with the address previously provided. [See Docs. 20, 28, 42]. Defense counsel has also provided Defendant Velasco's email address. [Doc. 42 at 2].

The Court, therefore, will make one final order to the U.S. Marshal to attempt service on Defendant Velasco using the information provided in Docket No. 42. To that end, the Court will direct the Clerk of Court to provide a copy of Docket No. 42 to the U.S. Marshal for its eyes only for the sole purpose of serving Defendant Velasco.

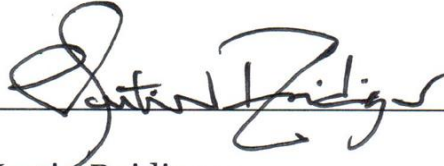
ORDER

IT IS, THEREFORE, ORDERED that the Clerk of Court issue summons and send a copy of the Complaint [Doc. 1], this Order, and Docket No. 42 to the U.S. Marshals Service. The U.S. Marshal shall use reasonable efforts to locate and obtain service on Defendant Velasco in accordance with

Rule 4 and thoroughly document such efforts if service is unsuccessful.

IT IS SO ORDERED.

Signed: January 23, 2023



Martin Reidinger
Chief United States District Judge

